

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 330**

H. P. 267

House of Representatives, January 20, 1981

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Nelson of Portland

Cosponsor: Senator Violette of Aroostook

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT to Prevent the Unauthorized Sale of Stripped Cover Magazines and Paperback Books.**

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Be it enacted by the People of the State of Maine, as follows:

10 MRSA c. 214-A is enacted to read:

**CHAPTER 214-A**

**UNAUTHORIZED SALE OF PERIODICALS AND PAPERBACK BOOKS**

§ 1431. Short title

This chapter shall be known and may be cited as the Unauthorized Periodical and Paperback Book Sale Act.

§ 1432. Legislative findings and purpose

The Legislature finds and declares that magazines and paperback books are sold and distributed under terms of sale allowing the return of unsold copies for credit against the purchase price paid and that, upon return, title to each magazine or book reverts to the publisher. The Legislature further finds that the custom and practice in the periodical industry is to remove the front cover of the periodical to document the return and to dispose of the remainder as scrap paper, but that a growing commercial trade has developed involving its sale of these magazines

and books. Unfair competition has arisen from this practice causing damage to the good will and economic interests of legitimate retailers, wholesalers and publishers in the periodical industry. It is therefore necessary to safeguard and protect the rights and property of the periodical industry.

**§ 1433. Definitions**

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. **Cover.** "Cover" means the front page or outside jacket of a periodical bearing the name or title of the magazine or paperback book.

2. **Periodical.** "Periodical" means any magazine published on a recurring basis or any soft cover paperbound or paperback book.

**§ 1434. Activity prohibited**

1. **Class E crime.** It is a Class E crime for any person, firm or corporation, without the consent of the publisher of the periodical, to knowingly sell, offer for sale or possess for purposes of sale in this State any periodical which has had the front cover removed in whole or in part.

2. **Removal of cover; presumption.** The removal of the cover, in whole or in part, from a periodical creates a rebuttable presumption that the periodical has been returned for credit and that any resale of the periodical is not authorized by the publisher.

3. **Possession, presumption.** Possession of 10 or more periodicals which have had the covers removed, in whole or in part, creates a rebuttable presumption that the periodicals are held for purposes of sale.

4. **Separate offenses.** It is a separate offense under this section for each periodical held in violation of this section.

**§ 1435. Court jurisdiction; injunctive relief**

The Superior Court has jurisdiction to enjoin violations of this chapter and to hear actions authorized by section 1436. Suits for injunctive relief may be brought by a district attorney or by any person whose business or property is affected by the violation, and are governed by the Maine Rules of Civil Procedure.

**§ 1436. Right of action; treble damages**

Any person injured in his business or property because of a violation of this chapter may bring an action for damage. If the action is successful the court shall award treble damages and reasonable attorney's fees.

STATEMENT OF FACT

This bill creates necessary protection for retailers and publishers of periodicals. The covers of unsold periodicals are stripped off and returned to the publisher for credit. The remainder of the periodical is sold as scrap paper or is destroyed. A business has developed involving the sale of these stripped cover periodicals causing economic damage to retailers and publishers. This bill makes that practice illegal.